



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**JUL 22 2015**

Benjamin S. Proto, Jr.  
Attorney at Law  
2090 Cutspring Road  
Stratford, CT 06614

RE: MUR 6566  
Lisa Wilson-Foley for Congress  
and Lisa Wilson-Foley in her official  
capacity as treasurer

Dear Mr. Proto:

On May 3, 2012, the Federal Election Commission notified your clients, Lisa Wilson-Foley for Congress ("Committee") and its treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, information supplied by you, and information that the Commission obtained in the normal course of carrying out its supervisory responsibilities, the Commission, on July 14, 2015, found that there is reason to believe the Committee and Lisa Wilson-Foley in her official capacity as treasurer knowingly and willfully violated 52 U.S.C. §§ 30116(f) and 30104(b) (formerly 2 U.S.C. §§ 441a(f) and 434(b)), provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in

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settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 52 U.S.C. §§ 30109(a)(4)(B) and 30109(a)(12)(A) (formerly 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A)) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Meredith McCoy, the attorney assigned to this matter, at (202) 694-1650.

On behalf of the Commission,



Ann M. Ravel  
Chair

Enclosure  
Factual and Legal Analysis

cc: Lisa Wilson-Foley

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1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2  
3 **RESPONDENTS:** Lisa Wilson-Foley for Congress  
4 and Lisa Wilson-Foley in her official MUR 6566  
5 capacity as treasurer  
6

7 **FACTUAL AND LEGAL ANALYSIS**

8  
9 **I. INTRODUCTION**

10 This matter was generated by a Complaint filed with the Federal Election  
11 Commission by Mike Clark and Mike Clark for Congress, alleging violations of the  
12 Federal Election Campaign Act of 1971, as amended (the "Act"), by Respondents.

13 **II. FACTUAL AND LEGAL ANALYSIS**

14 **A. Background**

15 The Complaint alleges that Lisa Wilson-Foley for Congress (the "Committee")  
16 received in-kind contributions from Wilson-Foley's family business in violation of the  
17 Act.<sup>1</sup> Specifically, the Complaint alleges that Apple Health Care, Inc. ("Apple Health")  
18 — whose president, Brian Foley, is Wilson-Foley's spouse — paid John Rowland, a  
19 former governor of Connecticut, as a "consultant" while he provided campaign work for  
20 the Committee, suggesting that those payments were in fact payments for services  
21 Rowland provided the campaign.<sup>2</sup>

22 The Complaint posits that Apple Health's payments to Rowland may have  
23 constituted unreported corporate contributions from Apple Health to the Committee,  
24 relying on a series of press reports that suggest Rowland's consulting arrangement with

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<sup>1</sup> The Committee is the principal campaign committee of Lisa Wilson-Foley, a candidate for the U.S. House of Representatives in the Fifth Congressional District of Connecticut in 2012. Wilson-Foley lost the August 14, 2012, primary election.

<sup>2</sup> Compl. at 2 (May 1, 2012).

1 Apple Health was a cover, and that Rowland was in fact being paid as a result of his work  
2 for the Committee.<sup>3</sup> In support of that inference, those press reports recite allegations  
3 that Rowland previously offered campaign consulting services to Mark Greenberg, a  
4 candidate in 2010 and 2012 in the Fifth Congressional District of Connecticut and  
5 Wilson-Foley's opponent in 2012, under a similar arrangement — where Greenberg's  
6 nonprofit animal shelter would pay Rowland for campaign-related services rather than  
7 Greenberg's campaign directly.<sup>4</sup>

8 The Committee argues in response that the Complaint fails to state a claim as to  
9 the allegations because (i) they are factually insufficient in that they rely on hearsay and  
10 third-party media sources;<sup>5</sup> (ii) they do not specifically state that Apple Health paid  
11 Rowland for work he provided the Committee or that Rowland used Apple Health  
12 resources to benefit the Committee;<sup>6</sup> and (iii) the relevant law expressly provides that an  
13 individual does not make a contribution to a committee of services provided voluntarily  
14 and without compensation, even if employed by another entity at the time.<sup>7</sup>

15 Concerning Apple Health's payments to Rowland, the Committee does not deny  
16 that Rowland engaged in a paid consulting relationship with Apple Health while

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<sup>3</sup> *Id.* at 1-2. The Complaint asserts that it is premised on information in media sources and other information generally available to the public, including statements made by the Wilson-Foley campaign itself, attaching three press articles in support. *Id.*, Attach.

<sup>4</sup> *Id.* at 2.

<sup>5</sup> Committee Resp. at 2 (July 10, 2012).

<sup>6</sup> *Id.* at 4.

<sup>7</sup> *Id.* at 3. The Committee responded similarly to the Complaint in MUR 6604, which attached a copy of the Complaint filed in MUR 6566. *See* Compl., Attach. 1, MUR 6604 (July 2, 2012); Committee Resp., MUR 6604 (Aug. 29, 2012). On February 25, 2014, the Commission severed from MUR 6604 the allegations that the Committee received a contribution from Apple Health in the form of consultant payments to Rowland and merged those allegations into MUR 6566.

1 providing political campaign services to the Committee.<sup>8</sup> Instead, the Committee denies  
2 that the Complaints allege a violation of the Act, asserting that the only factual  
3 allegations in the Complaints concern permissible volunteer activity of an individual who  
4 is employed by another entity.<sup>9</sup> The Committee contends that there is no express factual  
5 allegation in the Complaint that Apple Health paid Rowland to work for the Wilson-  
6 Foley campaign or that Rowland “was volunteering his time when he was supposed to be  
7 working for Apple [Health].”<sup>10</sup> The Committee also asserts that Rowland’s alleged offer  
8 to Greenberg in the 2010 cycle has nothing to do with Respondents in the current  
9 matter.<sup>11</sup> The Committee does not directly deny that Rowland was paid by Apple Health  
10 to work for the Committee.

11 The allegations in this matter have also been the subject of a criminal  
12 investigation conducted by the U.S. Attorney's Office for the District of Connecticut. On  
13 March 31, 2014, Lisa Wilson-Foley and Brian Foley each entered a guilty plea to a single  
14 misdemeanor count of conspiracy to violate 2 U.S.C. §§ 441a(a)(1)(A), 441a(f), and  
15 437g(d)(1)(A)(ii), in violation of 18 U.S.C. § 371, in connection with Brian Foley's  
16 payments to Rowland for work on Lisa Wilson-Foley's 2012 campaign. Brian Foley was  
17 sentenced on January 9, 2015, to three months in a halfway house, three years of  
18 probation, and a \$30,000 fine.<sup>12</sup> Lisa Wilson-Foley was sentenced on March 24, 2015, to

<sup>8</sup> See Committee Resp. at 1-4.

<sup>9</sup> *Id.* at 1-3.

10 *Id.* at 4.

11 *Id.* at 2.

<sup>12</sup> See Sentencing, *United States v. Brian Foley*, Crim. No. 3:14CR-65 (D. Conn. Jan. 9, 2015).

1 five months in prison, one year of probation and a \$20,000 fine.<sup>13</sup> John Rowland was  
2 tried and found guilty on September 19, 2014 of aiding and abetting violations of  
3 2 U.S.C. §§ 441a(a)(1)(A) and 441a(f) and for violating 18 U.S.C. §§ 1519 (falsification  
4 of records), 371 (conspiracy), and 1001 (false statements).<sup>14</sup> On March 18, 2015, he was  
5 sentenced to thirty months in prison.<sup>15</sup>

6 On the basis of the available information, the Commission finds reason to believe  
7 that the Committee failed to disclose contributions in the form of payments to Rowland  
8 for working on Wilson-Foley's campaign.<sup>16</sup> The information now indicates that the  
9 Committee accepted excessive contributions from Brian Foley rather than corporate  
10 contributions from Apple Health.<sup>17</sup> The information developed in the criminal  
11 prosecutions, moreover, suggests that these violations were knowing and willful.

12 **B. The Committee Knowingly and Willfully Accepted and Failed to**  
13 **Disclose Excessive Contributions**  
14

15 The sworn admissions accompanying the guilty pleas of Lisa Wilson-Foley and  
16 Brian Foley plainly show that the Committee received in-kind contributions in the form

<sup>13</sup> See Sentencing, *United States v. Lisa Wilson-Foley*, Crim. No. 3:14CR-65 (D. Conn. Mar. 24, 2015).

<sup>14</sup> See Jury Verdict, *United States v. Rowland*, Crim. No. 3:14CR-79 (D. Conn. Sept. 19, 2014).

<sup>15</sup> See Sentencing, *United States v. Rowland*, Crim. No. 3:14CR-79 (D. Conn. Mar. 18, 2015). On March 30, 2015, Rowland filed a notice of appeal. See Notice of Appeal, *United States v. Rowland*, Crim. No. 3:14CR-79 (D. Conn. Mar. 30, 2015).

<sup>16</sup> See 52 U.S.C. § 30104(b) (formerly 2 U.S.C. § 434(b)). On September 1, 2014, the Act was transferred from Title 2 to new Title 52 of the United States Code.

<sup>17</sup> See 52 U.S.C. §§ 30116(f) and 30118(a) (formerly 2 U.S.C. §§ 441a(f) and 441b(a)). According to the guilty pleas, Brian Foley personally paid Rowland for working on Lisa Wilson-Foley's 2012 campaign.

1 of Brian Foley's payments to John Rowland for campaign work totaling \$35,000 that the  
2 Committee never disclosed. As Lisa Wilson-Foley stipulated in her Plea Agreement:

3 In calendar year 2011, [Rowland]<sup>18</sup> was paid approximately \$15,000 for  
4 services rendered to the Campaign. In calendar year 2012, [Rowland] was  
5 paid approximately \$20,000 for services rendered to the Campaign. These  
6 payments originated with [Brian] Foley and constituted contributions to  
7 the Campaign Committee. As [Lisa Wilson-Foley] knew, those  
8 contributions were not reported to the FEC, in violation of federal  
9 campaign finance laws.<sup>19</sup>

10  
11 The Act and Commission regulations require political committees to report all  
12 contributions received, whether monetary or in-kind, during a given reporting period.<sup>20</sup>  
13 "Contribution" under the Act and Commission regulations includes the payment by any  
14 person of compensation for the personal services of another person rendered to a political  
15 committee without charge for any purpose.<sup>21</sup> During the 2012 election cycle, the Act  
16 prohibited any person from making contributions to any candidate and the candidate's  
17 authorized political committee with respect to any election for Federal office which, in  
18 the aggregate, exceeded \$2,500.<sup>22</sup> In addition, the Act prohibits any candidate or political  
19 committee from knowingly accepting any contribution or making any expenditure in

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<sup>18</sup> Rowland is referred to as "Co-Conspirator 1" in the filings that accompany Wilson-Foley's guilty plea.

<sup>19</sup> Stipulation of Offense Conduct, *United States v. Wilson-Foley*, 3:14-CR-65 (Mar. 31, 2014) ("Lisa Wilson-Foley Stipulation").

<sup>20</sup> 52 U.S.C. § 30104(b) (formerly 2 U.S.C. § 434(b)); 11 C.F.R. § 104.3.

<sup>21</sup> 52 U.S.C. § 30101(8)(A)(ii) (formerly 2 U.S.C. § 431(8)(A)(ii)); 11 C.F.R. §§ 100.52(d), 100.54.

<sup>22</sup> 52 U.S.C. § 30116(a)(1)(A) (formerly 2 U.S.C. § 441(a)(1)(A)). Contribution limits also apply to a candidate's family members. See *Buckley v. Valeo*, 424 U.S. 1, 51 n.57, 53 n.59 (1976) (upholding the constitutionality of contribution limits as to family members, reasoning that, "[a]lthough the risk of improper influence is somewhat diminished in the case of large contributions from immediate family members, we cannot say that the danger is sufficiently reduced to bar Congress from subjecting family members to the same limitations as nonfamily contributors").

1 violation of the provisions of section 30116 (formerly section 441a).<sup>23</sup> And any  
2 candidate who receives a contribution does so as an agent of the candidate's authorized  
3 committee.<sup>24</sup>

4 The Committee, through the candidate Lisa Wilson-Foley, knowingly received a  
5 \$35,000 in-kind contribution from Brian Foley that the Committee did not disclose.<sup>25</sup>  
6 Foley had already contributed the maximum to the Committee for the 2012 election  
7 cycle, so the entire amount of the in-kind contribution is excessive.<sup>26</sup> Accordingly, there  
8 is reason to believe that the Committee violated 52 U.S.C. §§ 30106(f) and 30104(b)  
9 (formerly 2 U.S.C. §§ 441a(f) and 434(b)).

10 There is also reason to believe that the Committee's violations were knowing and  
11 willful. A violation of the Act is knowing and willful if the "acts were committed with  
12 full knowledge of all the relevant facts and a recognition that the action is prohibited by  
13 law."<sup>27</sup> Lisa Wilson-Foley has admitted to conspiring to accept excessive in-kind  
14 contributions from Brian Foley with the intention that the purpose of the contribution —  
15 to pay Rowland for campaign work — would not be disclosed. As Lisa Wilson-Foley  
16 stipulated in her Plea Agreement:

17 . . . The defendant [Wilson-Foley] knew that federal law imposed  
18 restrictions on contributions to federal campaigns, including a \$2,500 limit  
19 on any contribution by any individual during each election, i.e.,

<sup>23</sup> 52 U.S.C. § 30116(f) (formerly 2 U.S.C. § 441a(f)).

<sup>24</sup> *Id.* § 30102(e)(2) (formerly 2 U.S.C. § 432(e)(2)).

<sup>25</sup> To date, the Committee has not amended its reports to disclose the contribution.

<sup>26</sup> Brian Foley contributed \$2,500 to the Committee for the 2012 convention and \$2,500 to the Committee for the 2012 primary election. *See* 2011 July Quarterly Report at 21.

<sup>27</sup> 122 Cong. Rec. H3778 (daily ed. May 3, 1976) (statement of Rep. Hays), *reprinted in* FEC, LEGIS. HISTORY OF FED. ELECTION CAMPAIGN ACT AMENDS. OF 1976, at 1078 (1977).

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1 convention, primary and general elections. The defendant also knew that  
2 the Campaign Committee was required by law to file periodic reports with  
3 the FEC detailing, among other things, contributions made to her  
4 campaign and expenditures made on the campaign's behalf. In these  
5 reports, the Campaign Committee was required to identify each person  
6 who, during the relevant reporting period, contributed more than \$200 to  
7 the committee, together with the date and the amount of any such  
8 contribution. The defendant knew that one of the purposes of these  
9 reporting requirements was to make available to the voting public  
10 information concerning the source of contributions to the Campaign and  
11 the nature of the Campaign's expenditures.

12  
13 . . . .

14  
15 The defendant wanted [Rowland] to work for her congressional campaign.  
16 However, the defendant knew and believed that, if [Rowland] was hired in  
17 a significant role by her Campaign and paid through the Campaign  
18 Committee for that work, the media and the voting public would become  
19 aware of [Rowland's] official association with her Campaign. The  
20 defendant knew and believed that disclosure of [Rowland's] paid role in  
21 the Campaign would result in substantial negative publicity for her  
22 candidacy because [Rowland] had previously been convicted of a felony  
23 offense. In order to retain [Rowland's] services for the Campaign while  
24 reducing the risk that his paid Campaign role would be disclosed to the  
25 public, the defendant, [Brian] Foley, [Rowland] and others agreed that  
26 [Rowland] would be paid by [Brian] Foley to work on the Campaign.<sup>28</sup>

27  
28 Accordingly, the Committee, through the candidate, Lisa Wilson-Foley,<sup>29</sup> was aware of  
29 the Act's contribution limits and disclosure requirements and affirmatively sought to  
30 accept the excessive contributions while not disclosing them. The Commission therefore  
31 finds reason to believe that the Committee knowing and willfully violated 52 U.S.C.  
32 §§ 30116(f) and 30104(b) (formerly 2 U.S.C. §§ 441a(f) and 434(b)) by receiving  
33 excessive contributions and failing to disclose the contributions on reports filed with the  
34 Commission.

<sup>28</sup> Lisa Wilson-Foley Stipulation.

<sup>29</sup> See 52 U.S.C. § 30102(e)(2) (formerly 2 U.S.C. § 432(e)(2)).

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